

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ANDREW R. MAY, on Behalf of Himself and  
All Others Similarly Situated,

Plaintiff,

vs.

TELIK, INC., MICHAEL M. WICK,  
CYNTHIA M. BUTITTA, UBS SECURITIES  
LLC, LEHMAN BROTHERS HOLDINGS,  
INC., BEAR, STEARNS & CO., INC.,  
NEEDHAM & COMPANY, INC., LAZARD  
FRÈRES & CO. LLC, FORTIS SECURITIES  
INC., and J.P. MORGAN SECURITIES INC.,

Defendants.

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KEVIN HENNESSY, Individually and On  
Behalf of All Others Similarly Situated,

Plaintiff,

vs.

TELIK, INC., MICHAEL M. WICK,  
CYNTHIA M. BUTITTA, UBS SECURITIES  
LLC, LEHMAN BROTHERS HOLDINGS  
INC., and  
J.P. MORGAN SECURITIES, INC.,

Defendants.

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x : Civil Action No.: 07 Civ. 4819 (CM)

: CLASS ACTION

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: REPLY MEMORANDUM OF LAW IN  
: SUPPORT OF THE MOTION OF  
: ZVI TRADING CORP. EMPLOYEES'  
: MONEY PURCHASE PENSION PLAN &  
: TRUST FOR CONSOLIDATION,  
: APPOINTMENT AS LEAD PLAINTIFF  
: AND FOR APPROVAL OF SELECTION  
: OF LEAD COUNSEL

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: Civil Action No. 07 Civ. 5707 (CM)

: CLASS ACTION

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Proposed Lead Plaintiff ZVI Trading Corp. Employees' Money Purchase Pension Plan & Trust ("Movant") hereby respectfully submits this reply memorandum of law in support of its motion for: (i) consolidation of the above-captioned actions (the "Actions"); (ii) appointment as Lead Plaintiff pursuant to the Securities Exchange Act of 1934, as amended by the Private Securities Litigation Reform Act of 1995 ("PSLRA"); and (iii) approval of its selection of Weiss & Lurie to serve as Lead Counsel for the plaintiff class.

First, all movants support consolidation of the above-captioned actions. Accordingly, Movant respectfully requests that this Court order consolidation of the above-captioned actions pursuant to Fed. R. Civ. P. 42(a).

Second, the information contained in the various competing motions for appointment as lead plaintiff, and the oppositions filed thereto, indicates that Movant does not have the largest financial interest in the relief sought by the class among the competing proposed Lead Plaintiffs.<sup>1</sup> However, should the Court determine that the competing movants lack standing, are inadequate, or fail to otherwise satisfy the requirements of the PSLRA for appointment as Lead Plaintiff, Movant is ready, willing and able to serve as Lead Plaintiff.

Third, Movant notes that the opposition memorandum filed by the Mehan Group cites *Dura Pharmaceuticals, Inc. v. Broudo*, 544 U.S. 336 (2005). To the extent that this Court applies *Dura* to require movants for appointment as Lead Plaintiff to demonstrate their financial

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Eight competing motions were filed by: 1) Policemen's Annuity and Benefit Fund of Chicago ; 2) Richard Scott Poole; 3) Mehan Group; 4) Erste- Sparinvest Kapitalanlagegesellschaft M.B.H. ("Erste-Sparinvest"); 5) Telik Investor Group; 6) Electrical Workers Pension Fund, Local 103, I.B.E.W.; 7) Stephen O'Grady; and 8) Movant. On August 17, 2007, Erste-Sparinvest filed a Notice of Withdrawal of its motion.

interest in this matter on the basis of shares retained at the end of the class period, the sworn declaration submitted by Movant with its motion appears to demonstrate that Movant retained all shares it purchased during the class period at the end of the class period. *See Declaration of James E. Tullman in Support of the Motion of ZVI Trading Corp. Employees' Money Purchase Pension Plan & Trust for Consolidation, Appointment as Lead Plaintiff and for Approval of Selection of Lead Counsel, Exhibit B.*

Last, this response shall have no effect on Movant's rights as a member of the proposed class, including, but not limited to, the right to share in any recovery from the resolution of these actions through settlement, judgment or otherwise.

Dated: August 27, 2007

**WEISS & LURIE**

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- and -

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[Proposed] Lead Counsel for [Proposed] Lead Plaintiff and the Class